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COERCIVE TRADE-UNIONISM AS ILLUSTRATED BY THE CHICAGO BUILDING-TRADES CONFLICT.

PRIOR to 1890 there had been a few serious contests between the workmen and the employers in the building trades in Chicago, the result of which had been to satisfy the labor leaders directly concerned, that additional power could be gained by forming a central organization which should take in all of the unions in those trades in Chicago. The Building Trades Council was consequently formed in that year. Its purpose is set forth in the preamble of its constitution, to wit:

"The object of this council is to construct a central organization which shall subserve the interests of all the labor organizations engaged in the erection or alteration of buildings; for the purpose of assisting each other when necessary; *thereby removing all unjust or injurious competition*, and to secure unity of action for their mutual protection and support."

The constitution further provides for a membership made up of delegates from unions in the building trades in Cook county, the number of delegates from each union to depend upon the numerical strength of the union. It was the practice to admit

to the council but one union of each trade with the result that as the council grew in strength there ceased to be any rival or competitive unions in any of the trades. The members of a rival union outside of the council were as much under its ban as were non-union men. The council at the height of its power had a membership of about three hundred and met weekly, Friday night. The principal salaried officer was a secretary at two thousand dollars per year.

The principal executive powers of the Building Trades Council were vested in what was almost a separate body, to wit., the Board of Business Agents or Walking Delegates. This body contained, roughly speaking, one quarter of the membership of the Building Trades Council, and was made up of the paid business agents of the unions. They were all under salary from their respective unions, and some of them were also under salary from the city of Chicago, though the constitution of the Building Trades Council required that no delegate to the council should hold any political office. The members of this board were supposed to devote all their time to union or Building Trades Council business, and were to meet three times a week, in the forenoons.

This board had its own president, vice president, and its own rules which, however, had to be approved by the Building Trades Council, though it had always been a question as to which was the superior, and which the subordinate body, the Building Trades Council or the Board of Business Agents. The committees and officers of the Building Trades Council were the ones usual in such bodies.

The revenues of the Building Trades Council were derived from sub-renting of halls to the different unions, and from the sale of working cards. These working cards were sold by the Building Trades Council to the different unions, who, in turn, sold them to their members, and it is no exaggeration to say that it was the aim of the Building Trades Council that no work should be done upon any building in Cook county except by men who carried these cards, for which they had paid tribute to their

unions and through these unions to the Building Trades Council.

These cards were changed quarterly. One side of the card represented the council and the other side the union to which the holder of the card belonged, and had to be shown, when demanded, to any business agent (irrespective of trade) who was himself in possession of a card. The possession of one of these cards for the current quarter was a certificate that the holder was a member in good and regular standing of one of the unions affiliated with the Building Trades Council. As such he was entitled by the rules of the Building Trades Council to work. The attempt of any workman to work on any building without such a card was the signal to the business agent to call a strike of all union men at work on the same building or for the same employer. The rule of the Building Trades Council on the subject is (Art. XVI., Sec. 7): "All members of affiliated organizations are compelled to show their cards when requested by business agents, or other members working on job, irrespective of trade, who is himself in possession of a card."[1] These rules were rigidly enforced. If a workman wanted to join a union or a member was so far in arrears of dues or fines that he could not pay up at once, a payment on account might secure him a "permit," which would be an equivalent for the card.

It was the aim of the council to organize all the workers on buildings into unions. They were practically so organized. Any new union desiring admission to the council had its application referred to that union of the council whose work most closely resembled that of the applicant union, and could not be admitted without the consent of the union to which the application was referred. Sometimes this consent was refused, as, for instance, the workmen who put up automatic fire sprinklers in buildings formed a union and applied for admission to the Building Trades Council, but the delegates from the Gas Fitter's Union objected, saying that this was their work, and that these men must join

[1] Compare with this the rule of one of the unions, as given in the note on page 326, art. v. § 5.

their union. The new union was not admitted, and strikes were declared against buildings on which its members were working as if they were independent workmen. In fact, it should be understood that when members of the Building Trades Council spoke of a non-union man, or "scab," they simply meant a workman who was not a member of a union affiliated with them. He might be a union man, for all other purposes, but to them he was a scab unless he was a member of a union affiliated with and paying tribute to them.

One of the tasks undertaken by the Building Trades Council was to decide disputes between unions as to which one should do certain work.[1] For instance, iron No. 12, or heavier, must be worked by members of the Boiler Makers Union; lighter than No. 12 by members of the Sheet Metal Workers Union. To illustrate the working of this rule two instances may be cited. Some plaster boards were at one time delivered at a building. These were a new article of manufacture. The men sent from the factory to put them up were not allowed to do so under threat that if they did all the union men at work on the building would strike. The laborers, carpenters, and plasterers unions then each claimed the work and each threatened to strike if it was done by the others. It was ultimately settled by the grievance committee of the Building Trades Council, but the boards could not be put up until it was so settled. On another building the completion of a smokestack of boiler iron was delayed at an expense of some thousands of dollars to the owner while the Boiler Makers Union and the Structural Iron Workers Union were presenting in due form to the same grievance committee their respective claims to the exclusive right to do such work.

It soon became evident that the Building Trades Council for the sake of more completely monopolizing the work on buildings,

[1] These were the rules of the Building Trades Council on that point: "It shall be unlawful for members of one trade to do work pertaining to that of another without their consent. No member of any organization affiliated with the Building Trades Council can carry working cards of any two building trades (art. xvi. § 5). That is, if a man has two trades, he must select one to follow and give up the other."

had to surrender the work in shops. When that was realized, the Building Material Trades Council was formed, on the same plan as the other, made up of brickmakers, planing mill workers, etc., that is, men who themselves did not go onto buildings at all, but who got out in the shops work to be put into the buildings by unions affiliated with the Building Trades Council.

The relationship between these two councils was that the Building Trades Council refused to allow any of its members to handle material made by men not in the Building Material Trades Council when the same article was made by some union in that council. For instance, none of the union bricklayers would lay any brick excepting those made made by members of the Building Material Trades Council. In return for which favor the Building Material Trades Council would strike at any factory that was furnishing material to a building during a strike to be put in place by non-union men.[1]

The control exercised by the Building Trades Council over its constituent unions is shown by the following extract from its constitution.

All agreements or demands for an advance in wages by the different unions must be submitted to the council when if concurred in by a two thirds vote of all the trades present the action shall be binding.[2] Failure of any trade to comply with the constitution or other rules and regulations of the Building Trades Council shall be punishable by fine, reprimand, suspension, or expulsion.[3] All organizations affiliated with this council in making and amending their constitution and by-laws shall not in any way conflict with rules or regulations of this council.[4]

When trouble occurs on any building or job affecting any trade represented in this council it shall be the duty of the business agent to immediately endeavor to settle same with contractor or owner, in accordance with the trade rules, and to the satisfaction of the trade involved, failing in this and a strike being necessary, the business agent shall have power to call a general strike, but before doing so he shall lay the matter before the council or Board of Business Agents at their next meeting and be governed by their action or

[1] The party of the first part (the employer) hereby agrees not to deliver any material to buildings on which a strike has been called, when so notified by the business agents of the Woodworkers Council. Art. xiv. Amalgamated Woodworkers agreement with their employers.

[2] Art. xii. [3] Art. xiv. § 3. [4] Art. xvii. § 12.

decision which shall be equally binding on all trades in this council engaged on the job or building.[1]

The following extract from an interview with Mr. Edward Carroll[2] as given in the Chicago *American* of April 15, 1901, shows how little regard the business agents had for the real interests of the men they represented.

Good fellowship was responsible for many strikes. A business agent would call in two or three other business agents, and inform them he had a grievance against a certain contractor. Without paying any attention to the rules of the council a strike would be called. Then the board of business agents would be called to indorse it and to be "good fellows," and the members would do so.

The rules of the separate unions that round out and make complete the combination are, that none of their men are allowed to work with non-union men under penalty of heavy fines; that they must strike when ordered by the business agent; also under penalty of heavy fines.[3] Moreover while it may not be in any printed constitution, it was thoroughly well understood, that no agreement between a union and an employers' association would be approved by the Building Trades Council unless it

[1] Art. xiii. § 2. [2] For years president of the Building Trades Council.

[3] To show just what these rules are the following are taken from those of the Sheet Metal Workers. "Any member may be fined, suspended or expelled for the violation of trades rules; constitution or by-laws." Constitution, art. xi.

"No member of this union shall be allowed to take the place of any person out on strike under penalty of expulsion." Constitution, art. vi. § 4.

"The business agent shall have power to order out all men when necessary on strike, and any member failing to obey such order shall be subject to the action of the union." By-laws, art. viii. § 7.

"He shall see that all men at work at our trade carry our working card or permit and that our rules or agreements are strictly enforced." By-law, art. viii. § 5.

"All members must carry our working cards while at work." By-laws, art. i. § 1.

"No member shall be allowed to work with any one as an amalgamated sheet metal worker unless carrying a working card or credentials of the union." By-laws, art. v. § 2.

"Members working with non-union men, or men without their working cards or permits shall pay a fine of fifty cents per day for days worked." By-laws, art. v. § 5.

"No sheet metal worker shall work with more than one apprentice or helper. Violation of this section shall be a fine as the union may decide, not less than fifty cents per day of time worked." By-laws, art. v. § 6.

contained a provision that a sympathetic strike when ordered by the Building Trades Council was not to be held a violation of the agreement.

To show the power finally attained by the unions over the employers through the organization and with the support of the Building Trades Council and how it was exercised, mention may be made of their fining and collecting fines amounting to thousands of dollars from employers for alleged payment of less than union wages to union men, no punishment being imposed upon the men.[1] They also threatened to allow their members to work only six hours per day; and they attempted to compel an employer to pay his men for time lost in strikes ordered by the union to force him to pay a demand he considered unjust.

They also in some cases, to enable the employers to pay the high union wages, prevented any material made outside of Chicago from being used in Chicago. This was often a clear violation of the interstate commerce act. They also compelled the abandonment of labor saving machinery. They arbitrarily restricted the employment of unskilled or partially skilled laborers; and they limited, ridiculously limited, the amount of work to be done in a day. It may not be quite fair to say that they forced President McKinley to join the Brick Layers Union before he could lay the corner stone of the new Post Office Building, but that he did so will doubtless be recalled by the readers of this JOURNAL.

The method of enforcing payments of fines, and payment for time their members were idle, was the same as they employed in securing higher wages and exclusive employment, viz., ordering and compelling their members to abstain from working, through fear of fines and punishments, and preventing the employer by picketing, threats, intimidations and the sympathetic strike, from obtaining other men.

The power finally possessed by the Building Trades Council

[1] In one instance the employer was fined for paying less than the union rate and compelled through a strike to pay two hundred and fifty dollars. The workmen who were charged with receiving the reduced wages were by their union acquitted of the charge.

and the affiliated unions, was not attained at once but gradually. From the first their well defined policy was to use their united strength against the individual employer or trade. As union after union, through the use of the sympathetic strike forced agreements from the majority of the employers associations providing for the employment of none but union men, and agreeing that sympathetic strikes when ordered by the Building Trades Council were not to be considered as violations of the agreement, the fate of the rest of the employers was sealed. No individual employer, no considerable group of employers in the same trade, could employ non-union men, when every building such men would be sent to would be "struck." As every owner and every architect soon realized from experience what it meant in loss and danger, in delays, and destruction of finished work, to employ independent contractors or workmen, they decided that obnoxious as was the rule of the Building Trades Council, no one could fight it alone. In a few years every contractor doing work on buildings in Cook county had to do it under the conditions prescribed by the Building Trades Council. Even then no one could be assured of freedom through delays in sympathetic strikes, as his men might be ordered to stop work at any time for the purpose of forcing some other contractor into submission.

The Building Trades Council was aided in attaining its power by the short-sightedness of some of the employers, who, for the sake of peace, for the sake of avoiding an immediate loss, were willing to sign any agreement presented to them by the union. They hoped by so doing to curry favor with the business agent, and that he in turn would shut his eyes later to the fact that the agreement was not being lived up to by the employer. They also consoled themselves with the hope that if all of their competitors paid the same wages they could all recoup themselves by simply charging a higher price for their work. But gradually many employers found that they had to pay the high wages whether all of their competitors did so or not. Many employers could and did often make private contracts with their men for less than the union rates, knowing them well enough to have no

fear of being reported to the union. Some employers did not come in close enough personal contact with their workmen to do this and others were unwilling to violate even a forced agreement.

Many employers were short-sighted in the matter of making exclusive agreements with the unions. At different times, and in different trades, when the union presented the demands that only union men be employed, the answer was made: "We will hire only union men if your men will work only for us." Sometimes this offer was made in the hope that the employers might build up a combination of their own by which they could more easily pay the high wages demanded,[1] as often it was done to get the union to make an agreement that it could not keep, and so pave the way for a rupture at the convenience of the contractors.

That the contractors as a body, and particularly the Building Contractors Council, realized the folly of exclusive agreements before the fight began, is shown by the fact that in December 1899, the Building Contractors Council was asked by the Building Trades Council if the so-called ultimatum would be withdrawn, provided exclusive agreements were entered into. The question was duly considered and answered promptly in the negative.

The power possessed and exercised by the Building Trades Council was so great that it would have created a revolution if it had been claimed by a legally constituted government, and if it had been exercised with some pretense of regard for the welfare of the entire community. It must be remembered that these more than governmental powers were exercised by a corporation cloaking itself under a charter from the State of Illinois, "not for profit," whose meetings were held behind closed doors, some of whose acts only were known to the public.

What always seemed particularly outrageous was its treatment of the independent workman. Art. XVI, Sec. 1, of its

[1] The anti-trust law of Illinois especially excepts joint arrangements of any sort the principal object or effect of which is to maintain or increase wages. The question of the validity of this entire law owing to this exception is now before the courts.

constitution reads: "It shall be the special duty of this council to use the united strength of all trades represented herein *to compel* all non-union men to conform to and obey the laws of the trade to which they should properly belong." This was so enforced that no independent workman, no man suspended or expelled from his union, could work at any building trade in Chicago. There is one case in the criminal court of Cook county now against the secretary of the Building Trades Council for conspiring to drive two men out of their union on trumped-up charges, and then, after they were expelled from the union, to drive them out of Chicago. Dozens of other similar cases might be cited.

Sec. 4 of Art. XVI of the constitution reads: "No member of any trade affiliated with this council shall be permitted to work on any building or job under police protection." That is, if there is trouble in one trade, and independent workmen are sent to a building, and the employer, fearing an assault by union sluggers, asks the city to send policemen to the building to keep the peace, all the union men on the job are required under penalty of fines to stop work. The natural result is that the idle union men realize that to get back to work they must be rid of the police or the independent workmen, or both. The presence of a lot of idle union men about a building, idle because of the presence of a few independent workmen, and angry at being idle, usually has the desired effect of soon frightening away the independent workmen, when, of course, the police are called off and the union men are allowed to resume work.

Some of the unions also have a clause in their constitution prohibiting their members from working on a building protected by an injunction of the court.

EMPLOYERS' ASSOCIATIONS.

In 1897, seven years after the organization of the Building Trades Council, the Employers' Conference Committee was formed, made up of delegates from each employers' association, and for the purpose of resisting the arbitrary, unjust, and

unlawful demands of the Building Trades Council. The time, however, was not yet ripe. It soon appeared that there were two factions, one believing in making some kind of an agreement with the Building Trades Council, another believing that such an agreement could not be obtained, and that it would be of no value, or would not be lived up to, if it were. However, some months were spent trying to make such an agreement. When the attempt was admitted by all to be a failure, the other faction demanded recourse to other measures, particularly to test in the courts the lawfulness of the agreement then under discussion between the Building Trades Council and the Board of Education, by which none but union labor was to be used on the city schoolhouses. The peace-at-any-price ones withdrew. Those who remained kept the organization alive, did a few minor things, and in 1899 reorganized, with all the old trades and a number of new ones, and changed the name to the Building Contractors Council. Almost their first act was to arrange for a meeting between a committee from their body and a committee from the Building Trades Council to discuss the grievances of the employers, and see if they could be peaceably abated. The conference was barren of result.

The next step was in November 1899, when the Building Contractors Council issued to the Building Trades Council and the public its so-called ultimatum, which, after a number of whereases,

Resolved, That, on and after the first of January 1900, the trades represented in the Building Contractors Council shall not recognize:

1. Any limitation as to the amount of work a man shall perform during his working day.
2. Any restriction of the use of machinery.
3. The right of any person to interfere with the workmen during working hours.
4. The sympathetic strike.
5. The right of the unions to prohibit the employment of apprentices.

And be it further

Resolved, That a copy of these resolutions be sent to the Building Trades Council and its affiliated unions, as outlining the position of the Building

Contractors Council with respect to conditions existing in the building trade at the present time that are detrimental to the welfare of all parties concerned, with the assurance that there is no disposition on the part of the Building Contractors Council to question the present rate of wages, hours, or the principle of legitimate unionism.

The Building Trades Council took no action upon the communication, and the building interests (architects, owners, and contractors) prepared for the fight by finishing what work was under way and abstaining from starting anything new.

In December, however, a prominent dealer in building material, Martin B. Madden, arranged for a meeting of committees from each council to see if some arbitration agreement could not be arranged that would prevent the fight. The joint committee held a number of meetings and agreed upon a report which was signed by all the employers and by a majority of the business agents. This was an absurd agreement, but was the best to which the employers could obtain the consent of the delegates from the Building Trades Council. The next day the agreement was ratified by the Building Contractors Council. The Building Trades Council read the report at its meeting, ordered it printed (one copy only for each union), and referred it to the individual unions for instructions to their delegates as to how they should vote when the question of its ratification should again come before the Building Trades Council. After several weeks had elapsed the Building Contractors Council became satisfied from the reports received from the individual unions that the Building Trades Council did not intend to ratify the agreement, so it notified all of their union employees that after February 5 they would employ only workmen who assented to the following terms, to wit:

Wages as heretofore.
Eight hours shall constitute a day's work.
Time and one half will be allowed for all overtime.
Double time for Sundays and holidays.
No limitation as to the amount of work a man shall perform in a day.
No restrictions as to union or non-union made material.
No restrictions as to the use of machinery.

The foreman shall be the agent of the contractor.

The right to employ and discharge whomsoever he may choose is reserved to the employer.

In this way the issue was made, and each side prepared for a contest, though it is doubtful if even then the unions realized the seriousness of the storm they had raised. They were still confident of their power and of the weakness of the contractors; still confident that the contractors could not "hold together."

By this time the Building Contractors Council, a central body of representatives from employer's associations, declared its aim to be the destruction of the central body of the unions.[1] Before judgment is passed upon the justice of that position, the essential difference between the two bodies should be realized.

The strength of the Building Trades Council lay in its ability to compel the obedience of its members to its commands. The union that did not obey any rule or regulation of the Council was to be fined, suspended, or expelled. Every member of any union was subject to the same discipline. The man or the union so suspended or expelled was treated as non-union, and it was the special duty of the Council to use the united strength of all trades therein represented to compel all non-union men to obey its laws. The aim of the Building Trades Council and the unions was to monopolize the market for building labor. They succeeded so well that any union man who was suspended or expelled was so hounded by them that he had to leave Chicago or change his occupation. The result was that the rule of the union over its members was absolute.[2] The Building Contrac-

[1] All the agreements made between unions that have withdrawn from the Building Trades Council and employers associations provide that during the life of the contract the union shall not join any central body whose aims, purposes, constitution or rules would interfere with the carrying out of the contract.

[2] Mr. JUSTICE BREWER of the Supreme Court of the United States, in his address before the New York State Bar Association, January 1893, speaking on "The Movement of Coercion," says:

This movement expresses itself two ways: First, in the improper use of labor organizations to destroy the freedom of the laborer, and control the uses of capital. I do not care to stop to discuss such wrongs as these — preventing one from becoming a skilled laborer, by forbidding employers to take more than a named number of

tors Council was organized to obtain industrial freedom for the employers, the workmen, and the owners. It did not resort to force to compel anyone to join its ranks, it used no manner of force to compel anyone to remain. It did use argument, persuasion, influence; it had the backing of the public, the press, the architects, the real estate board, the material men, and the laws. None of its members was convicted of any offense against the laws, nor was any of them indicted or arrested. Many union men were arrested and convicted before police magistrates, weakly as the law was administered by some of these courts. Some thirty indictments were had before the grand jury. In the four cases actually tried in the criminal court, there was one acquittal, one disagreement of the jury and two convictions. In every case the accused was defended by his union, bonds were procured by his union, and the fines imposed were paid by the union. When the fight began, the unions and the Building

apprentices; compelling equal wages for unequal skill and labor; forbidding extra hours of labor to one who would accumulate more than the regular stipend. That which I particularly notice is the assumption of control over the employer's property, and blocking the access of laborers to it. The common rule as to strikes is this: Not merely do the employees quit the employment, and thus handicap the employer in the use of his property, and perhaps in the discharge of duties which he owes to the public; but they also forcibly prevent others from taking their places. It is useless to say that they only advise — no man is misled. When a thousand laborers gather around a railroad track, and say to those who seek employment that they had better not, and when that advice is supplemented every little while by a terrible assault on one who disregards it, everyone knows that something more than advice is intended. It is coercion, force; it is the effort of the many, by the mere weight of numbers, to compel the one to do their bidding. It is a proceeding outside of the law, in defiance of the law, and in spirit and effect an attempt to strip from one that has that which of right belongs to him — the full and undisturbed use and enjoyment of his own. It is not to be wondered at, that deeds of violence and cruelty attend such demonstrations as these; nor will it do to pretend that the wrong-doers are not the striking laborers, but lawless strangers who gather to look on. . . . . This is the struggle of irresponsible persons and organizations to control labor. It is not in the interest of liberty— it is not in the interest of individual or personal right. It is the attempt to give to the many a control over the few— a step toward despotism. Let the movement succeed; let it once be known that the individual is not free to contract for his personal services, that labor is to be farmed out by organizations, as today by the Chinese companies, and the next step will be a direct effort on the part of the many to seize the property of the few.

Trades Council were in receipt of an income from the union men of over $10,000 a month. The income of the Contractors Council was about $500 per year. Its extraordinary expenses had to be met by assessments and contributions.

PROGRESS OF THE CONTEST.

It was a week or two before the fight was fairly under way. Soon, however, Building Trades Council men struck on account of the rules under which they were asked to work, or were discharged for refusing to work under them. Then new men were put on to take the place of those displaced, and workmen were carried between their homes and their work in busses or under the escort of the police, to avoid the union sluggers. Assaults, riots, destruction of property, were of daily occurrence. The police authorities seemingly did everything they were asked to do, but they utterly failed to stop the assaults.

In April, at the Marshall Field Building, Clark and Adams streets, one of Chicago's most prominent corners, non-union men were substituted for the union men. The streets in the neighborhood swarmed with pickets and sluggers. Two or three serious riots took place. In one or two instances arrests were made. The sluggers were fined and the fines paid by the union officials. Finally the building was turned temporarily into a hotel and the non-union men were lodged and fed in the building.

About this time the city of Chicago was in need of money; the banks were asked "for the credit of the city" to advance it until taxes came in. The city authorities were told that the credit of Chicago was then in the hands of those who could but did not stop these assaults, who could but did not enforce the laws, and that the city could have no money from the banks until those in authority at the City Hall enforced the laws and suppressed these assaults and riots.

The further demand was made that Edward Carroll, the president of the Building Trades Council, who was also a member of the City Civil Service Commission, must be dismissed from that board, a position he was utterly unfitted to fill.

These demands were complied with; there were no more riots, only occasional isolated assaults. In other words, if the police had been handled at first as they were finally, the riots and assaults could have been stopped at the beginning.

Mayor Harrison, however, in accepting Carroll's resignation, sent him the following letter:

EDWARD CARROLL, ESQ.,
Chicago, Ill.:

Dear Sir: I am in receipt of your letter of resignation of the position of Civil Service Commissioner of the city of Chicago, and I yield to your request that it be accepted. I do not hesitate to say, that during your term as commissioner you have endeavored to perform your duties honestly, intelligently and industriously. Your action in resigning your position on the Civil Service Commission, so as to be free and unhampered in the exercise of your function as president of the Building Trades Council, thus making a serious financial sacrifice, is an object-lesson for many of your critics, who claim for themselves a monopoly of all the virtues. If some of these, instead of sacrificing the public interests by stubbornly and selfishly standing in the way of arbitration, would manifest a spirit similar to that which you have just shown, the people of Chicago would quickly be relieved of the unpleasant situation that now exists.

CARTER H. HARRISON.

How well fitted Mr. Carroll was to administer the civil service laws may be shown by the following official letter from the Civil Service Board (adopted at the last meeting attended by Mr. Carroll) to the eligibles on the list for sub-wall inspectors:

The city needs some sub-wall inspectors. If you are masons and report to this office we will be glad to certify you, but while we have no power to tell you to belong to the union it will be practically necessary for you to do so, as the other men will not work with you. Mr. Gubbins tells us that there will be no trouble about your joining the union if you want to. The salary is three dollars and fifty cents a day. Please reply immediately. Failure to reply will be considered a refusal.

The Mr. Gubbins referred to was the president of the Brick Layer's Union. In saying that they had no power to require these inspectors to join the union they were referring to the decision of the supreme court of the State of Illinois that no public or semi-public body could discriminate between union and non-union men.[1] The unions, however, determined that the

[1] Adams *vs.* Brennan, *Northeastern Reporter*, p. 314.

decision should not control them. They refused under threats of punishment to let their members work with non-union men and the city, when put to the choice of doing work as the law required, or as the unions required, at once chose to follow the commands of the unions rather than those of the law.

ARBITRATION.

Early in the struggle offers were made to the Building Contractors Council by the mayor and others to arrange for arbitration of the matters in dispute. The position taken by the Building Contractors Council was that the real and sole question in dispute was the control claimed and exercised by the Building Trades Council over the business of the employers. The question of the lawfulness of that control could only be definitely settled and the finding enforced by the courts of law regularly established for that purpose, and whether that control was lawful or not it was economically impossible for the employers to submit to it longer.

The Contractors Council soon found that besides having the union to fight, they had to fight those holding elective political offices, who were catering to the so-called labor vote, police magistrates, county commissioners, and union members who were in some city office that gave them power to assist the union and embarrass the employers. For instance, by a state law, no one is allowed to run a stationary engine unless he has been examined and found competent by a board appointed for that purpose. Those in control of the Chicago board of examiners were union engineers, who, without, scruples, prostituted the office to build up their union regardless of the law. That is to say, without any authority from the law they limited each license to a single plant. The engineer who wanted to take a new position was required, without any authority in law, to have his license transferred to his new place, and if that happened to be one where there was a strike, every obstacle was put in his way to prevent his getting his transfer and taking the place.

In the latter part of June the Building Contractors Council

arranged for a conference with most of the unions affiliated with the Building Trades Council through representatives who were not members of the Building Trades Council. That is, the contractors tried to get at the unions directly. The conference lasted two days; it was well attended and the whole dispute was argued back and forth by both sides. The conference was apparently without results.

In June the Brick Layers Union made an agreement with the Masons and Builders Association and withdrew from the Building Trades Council and went back to work under the new agreement. This started business, and a great many contractors in other branches began operations with non-union men or with members of new unions; or with individual workmen who had sent in their resignations from their unions and would sign an individual contract. The unions then realized that they were losing their members and they had to choose between making agreements with the employers or having their unions go to pieces.

At the present writing, the Building Trades Council has given the National Building Trades Council authority to revoke its charter; business is improving; most of the unions have made agreements with their respective employers' associations by which the unions have agreed not to strike for any cause; the employers have agreed not to lock out for any cause; all disputes are to be arbitrated. These contracts terminate in April 1903.

CAN UNIONS BY COMBINATION INCREASE THE AVERAGE ANNUAL INCOME OF THEIR MEMBERS?

One of the important questions to be considered in reviewing this struggle is, whether the members of the union were benefited, or could be benefited, by the power the unions undoubtedly possessed, to raise their wages per hour far above a normal rate. The test as to whether these high rates per hour were of benefit to the workman is the net annual earnings of all the members of the union; that is, was the average wage

per year raised by the high rate per hour? It seems to me evident that if the wages in Chicago are higher per hour than elsewhere, men from the surrounding country will come to Chicago to get the benefit of these high rates. But, say the unions, we will stop that by preventing the outsider from working unless he joins the union, and from joining the union by making the initiation fee fifty dollars; by arbitrarily rejecting the applicant; by prohibiting boys from learning the trade. But new members do get in, and the capitalist learns that whether the average income to the union workman is greater or not, the cost of building to him is greater in Chicago than elsewhere, and as a result he builds only what he must. The result is less work to be done by the increased numbers of the union. The next move is the limitation by the union of the amount of work to be done per day to spread the diminished amount of work over the greater number of its members by compelling the employers to give up the use of labor-saving machinery, and by requiring that work that can just as well be done by laborers must be done by mechanics only.

That these high rates per hour with work for a limited number of days per month or per week does not satisfy the union members is illustrated by the fact that the union is constantly trying to prevent its own members from cutting the regular rate per hour for the sake of steady employment. The suspicion of the union that steady work meant cutting of rates is illustrated by the following instances:

An employer upon reaching his building one morning found his men all gone. He went to union headquarters to find the reason for it, claiming that he knew of none; that the men were all satisfied, that they had worked for him for years with no trouble, etc., etc. "Yes, Mr. S., they have been with you for years. You know one another too well; they are working for less, you are paying less than the scale; you must get a new set of men."

Another employer, a German, is suspected of paying less than the scale. No proof can be found, but that a lot of his

men, also German, have steady work; have the preference over other men who only work for him when he has more work than can be done by these Germans. On some pretext a strike is called; when it is settled he is told that he cannot have his old German workmen back; that he must employ Irishmen.

The president of the Building Laborers' Union testified before the United States Industrial Commission that his men averaged only four days per week; other sworn testimony before the same commission was that bricklayers averaged only one hundred days' work per year, and other union leaders have given results but little better.

The annual income of the union men is still further lessened by the cost of the unions and also by the time lost in strikes. It would seem that a high rate per hour obtained by coercion can be retained by the same method only. No attempt is here made to show that unions cannot hasten the advance of wages when they are below the normal, nor to argue that they cannot be of great help to their members where they are properly conducted, but one must question the lawfulness of the purposes of any union attempting to prevent any but its own members from working and at the same time fixing its initiation fee at fifty dollars or more.

Just as the character of the union workman must be harmed by his realizing that he is under the absolute control of the faction that runs his union, that he must stop work when commanded to do so by them, that he must participate in every unjust and iniquitous demand made upon the employer, that he must refuse to do an honest day's work for even his high day's wages, or as he learns to look for advancement to the coercive methods of the union, to his standing well with those in control of the union, rather than to the exercise of the old-fashioned virtues of industry, skill, ability, and faithfulness to his employer's interests, so his character might be improved by membership in a union conducted upon the plan of enabling its members to secure higher wages and steadier work through its furnishing better mechanics and better men.

The feature in this dispute that seems most worthy of attention is that while many well-meaning people tried as they expressed it to have the whole matter arbitrated, there was no effort made by either side or by the interested public, to have it settled by the courts of law.

The Building Contractors Council did go to the criminal court at once for the punishment of those against whom cases could be maintained for violations of the criminal law. But the imposing of a fine of even one hundred dollars and costs on a slugger or two to be paid out of the treasury of the union is no relief to one whose business is destroyed for months by a combination of workmen who are actively trying to force him to conduct that business as they want rather than as he wants, and who are using unlawful means to accomplish that unlawful end. A suit at law for damages would be equally valueless owing to the insolvency of the defendants, the length of time it would take to get a decision, and to the fact that while the matter is in the courts the employer's business is being destroyed.

From the foundation of our government it has been a part of our law that when complaint is made in a court of equity that the complainant is suffering, or is threatened with loss to his property through such acts as would justify an award of damages in a suit at law, and that the ordinary remedy, a suit at law for damages is inadequate through the insolvency of the defendants, or through reason of their number being so great as to require such a multiplicity of suits as would render the remedy valueless, or through the fact that the loss is irreparable, or that it continues from day to day thus requiring new suits each day, then the court interferes with a writ of injunction, ordering the defendants to cease the acts complained of under penalty of punishment by the court if its order is disobeyed.

If the order is issued preliminary to a full hearing from all sides a bond may be and usually is required so that if it turns out that the defendants have suffered unjustly through the issuing of the writ they may recover damages at once. The order is not made permanent without a final hearing. If at the final decree

either side is dissatisfied with the order as issued it can appeal to a higher court. If the order is disobeyed and some one is punished for contempt that order of punishment can be appealed from; but the question as to whether the order of the court has been disobeyed is decided in the first instance by the court issuing the order and not by a jury.

Within the last few years a great many people have objected to this as "government by injunction." As the supreme court of the United States has gone over all of these questions very fully in its review of the Debs case[1] it should be sufficient for those who believe in law and order to know that our court of last resort not only affirmed the lawfulness of this use of the injunction, but commended it.

The law as administered by courts of equity is and has always been held to be, as much a part of the law of the land as any other law which our judges are sworn to declare, and our executives to enforce. There is probably no judge who ever sat on an American bench in equity cases who did not during his term of office order and enforce many injunctions.

It would seem that this is a remedy that all people who have at heart the welfare of our society should favor and encourage. They should realize that to bar employers in disputes with strikers from the use of the courts in the same manner that they are open to them in other disputes is to put organized labor above the law in a class by itself. If those who have objected to the use of the injunction in disputes of this kind would consider that when it can be used it is as far as it goes a very effectual method of compulsory arbitration they would perhaps look upon its use more favorably.[2]

The supreme court in the Debs case, previously mentioned,

[1] *15 Supreme Court Reporter*, p. 900.

[2] The attitude of organized labor in its opposition to the use of the injunction is shown in the resolution of the Building Material Trades Council in the Chicago municipal campaign this spring. It condemned Mayor Harrison for furnishing police protection to the contractors and also condemned Judge Haney for issuing injunctions to restrain the unions from interfering with the business of an employer by unlawful means.

in answer to counsel that "a mob cannot be suppressed by injunction" said:

> We do not perceive that this argument questions the jurisdiction of the court, but only the expedience of the action of the government in applying for its process. It surely cannot be seriously contended that the court has jurisdiction to enjoin the obstruction of a highway by one person but that its jurisdiction ceases when the obstruction is by a hundred persons. It may be true as suggested, that in the excitement of passion a mob will pay little heed to processes issued from the courts, and it may be, as said by counsel in argument, that it would savor somewhat of the puerile and ridiculous to have read a writ of injunction to Lee's army during the late Civil War. It is doubtless true that *inter arma leges silent*, and in the throes of rebellion or revolution the processes of civil courts are of little avail, for the power of the courts rests on the general support of the people and their recognition of the fact that peaceful remedies are the true resort for the correction of wrongs. But does not counsel's argument imply too much? Is it to be assumed that these defendants were conducting a rebellion or inaugurating a revolution, and that they and their associates were thus placing themselves beyond the reach of the civil process of the courts?

There were a number of reasons why the employers did not ask for relief by injunction. The general feeling was that there was little possibility of relief to be had through the courts on account of the time consumed, and the "politics" so often dreaded by the employer in labor litigation. Moreover the contractors did not generally realize the existence of the remedy and failed to thoroughly understand just where the deeds of the Building Trades Council and the unions were unlawful.

There should be noted here the distinction between unlawful acts which are criminal and unlawful acts not criminal; the latter may result merely in civil liability for damages.

The reader should be reminded that the relation of employer and employee does not exist between the striker and his former employer. The striker has no more right to interfere with the business of his former employer than has any other outsider.

Let us consider just what were the aims of these organizations and by what means they gained their ends. They attempted to and did so control the labor situation in the building trades in Chicago that no workman could work, no employer could do

business, no owner could build, except upon the terms laid down by them. A building mechanic coming to Chicago, a foreigner, could get along very comfortably without taking out his naturalization papers, but he could not, during the reign of the Building Trades Council, work at his trade a week without getting a card or a permit to work from the proper union.

This power of these organizations was founded upon the theory that the individual workman has the right to refuse to work for any reason or for no reason. This theory is sound, save for the limitations pointed out by Judge Taft:

> Generally speaking this is true, but not absolutely. If he uses the benefit which his labor is or will be to another, by threatening to withhold, or agreeing to bestow it, or by actually withholding it or bestowing it for the purpose of inducing, procuring, or compelling that other to commit an unlawful or criminal act, the withholding or bestowing of his labor for such a purpose is itself an unlawful act.[1]

The next step is the further assumption that what the individual workman may do, the union may do as a body; and that what the union may do it may compel its individual members to do, under threats of fines, suspension, and expulsion, and the refusal of all other union men to work with the suspended or expelled one, themselves under the same threat of fine, suspension and expulsion. As to the idea that what is lawful when done by an individual may be unlawful when done by a combination, the supreme court of the United States, in Callan *vs.* Wilson,[2] says (quoting with approval from an earlier case):

> The increase of power by combination of means being in geometrical proportion to the number concerned, an association may be able to give an impulse, not only oppressive to individuals, but mischievous to the public at large; and it is the employment of an engine so powerful and dangerous that gives criminality to an act that would be perfectly innocent, at least in a legal view, when done by an individual.

Again, unity of action in these organizations is procured by force; by fines which the unions can collect through force, that

[1] Toledo, A. A. & N. M. Ry. Co. *vs.* Pennsylvania Co., 54 *Federal Reporter*, p. 737.

[2] *8 Supreme Court Reporter*, p. 1301; Arthur V. Oakes, 63 *Federal Reporter*, p. 322.

is, through compulsory nonintercourse. In a recent case the supreme court of Vermont says:[1]

> When the will of the majority of an organized body, in matters involving the rights of outside parties, is enforced upon its members by means of fines and penalties the situation is essentially the same as when unity of action is secured among unorganized individuals by threats or intimidation. The withdrawal of patronage by concerted action if legal in itself, becomes illegal when the concert of action is procured by coercion. . . . . The voluntary acceptance of by-laws by members of an association providing for the imposition of coercive fines for the violation of association rules, does not remove the fact of their coerciveness.

It is thoroughly well settled that the unions cannot lawfully compel non-union men, their own members, the employers, or the public, to do what it is lawful for them to refrain from doing, or compel them to abstain from doing what it is lawful for them to do. It is equally certain that it is unlawful for the unions to interfere with an employer's business by picketing his factory or building where he may be at work, no matter how few the number of the pickets or how peaceably it is done; also that it is unlawful for them to wilfully induce or persuade third parties for the purpose of injuring another to break existing contracts. Under this head comes the sympathetic strike. It is also unlawful through threats of strikes, boycotts, or sympathetic strikes to extort money from employers to pay the expenses of a strike, or to pay fines imposed upon them by the unions.

As showing how the same act appears to different people, it may be noted that the sympathetic strike as exemplified in the Debs riots of 1894, is called by Miss Jane Addams "a grand altruistic uprising," while Judge Taft, in a case before him, said that a sympathetic strike to compel one railroad to discriminate against another by refusing to handle its freight, was a criminal conspiracy, making every member of the union engaged in it (the Brotherhood of Locomotive Engineers) liable to a fine of not more than ten thousand dollars, or to imprisonment for not more than two years, or both fine and imprisonment.[2]

[1] Boutwell *vs.* Marr, 42 *Atlantic Reporter*, p. 609.

[2] Toledo A. A. & N. M. Ry. Co. *vs.* Pennsylvania Co., 54 *Federal Reporter*, p. 730.

Mr. Justice Brewer, of the United States supreme court, in an address recently made before the law students at Yale, touched upon the unlawfulness of some of the acts of the labor organizations in the following words:

> It may be wise that all who are engaged in pursuing the same avocation should be organized into one body; but whether they should be so organized or not depends, as the law now stands, solely on voluntary action, and to attempt to deny a laborer his right to work, whether he be within or without an organization, and to deprive him of full protection in that work, implies a plain disregard of the mandates of the law. If it be, as a matter of political economy, wise that there should be a consolidation of all employees into one or more organizations, and that no one should be permitted to work except he be a member of such organization, let the law-makers so enact, and whenever a constitutional enactment to that effect is passed then every good citizen should strive to enforce it. But until such enactment there is no justifiable excuse, by attempting by any form of coercion, to deprive one of his liberty in respect to labor, a liberty included within what our fathers declared to be inalienable rights, "life, liberty, and the pursuit of happiness."

The statement that one of the reasons for the contractors' disbelief in the possibility of getting relief from the courts was their fear of the influence of politics in labor litigation, requires some explanation.

In all large cities organized labor always arrogates to itself the right to speak in public matters for all workmen, for the people in fact. This claim, continually made, is given weight by public officials who wish to stand well with the electorate. The writer does not wish to cast any reflection upon the judges of Cook county. They undoubtedly are as learned and as honest in their decisions as other judges similarly situated, that is whose constituency includes a large number of union men and who, every few years, have to go before the people for re-election.

Those of the State of Illinois are, however, given greater latitude than those of many other states, owing to the fact that there has never been before the supreme court of this state any case directly raising the question of the lawfulness of the acts of the unions in question, that is picketing, the sympathetic strike, compulsory strikes — that is the strike ordered by the union where the members of the union must strike or be fined,

suspended, expelled, and boycotted; the use of the organization to compel obedience to its commands from the non-union man or from the employer who wishes to conduct his business without employing any of the members of the union, and who but for its interference could easily do so.

To fully understand the effect of the lack of these rulings by our own state supreme court it should be remembered that the courts of record of original jurisdiction in this state, when there is no binding decision by the supreme court of this state, may follow the rulings of almost any other court of higher or even equal rank to their own.

Just how this works is illustrated by a case in New Jersey[1] where, on the question of the lawfulness of picketing, the court reviewed decisions of the supreme court of Massachusetts and of Michigan, and of two different federal courts, holding all picketing to be unlawful, but added that in the absence of any case in the courts of New Jersey he would follow the decision of a court of Cook county, Illinois, ruling that picketing unaccompanied by actual violence was not unlawful. The other illustration relates to the question of the power of the board of education of this city to employ on its work one class of labor to the exclusion of the others. Two different judges of the Cook county courts decided that the board of education had that right; the supreme court of the state on appeal held otherwise and decided that no public or quasi-public body in this state had any such right.[2] Last summer, after this decision of the supreme court, the same question, this time however, as to the board of county commissioners, was before one of our county judges. When the decision of the supreme court in the board of education case was cited, he immediately said that he was surprised that any lawyer should come before him and claim for the county commissioners the right to do what the supreme court had so positively held it was unlawful for the board of education or any public or quasi-public body in this state to do.

[1] Cumberland Glass Mfg. Co. *vs.* Glass Bottle Blowers Association, 46 *Atlantic Reporter*, p. 208, December 14, 1899.

[2] Adams *vs.* Brennan, 52 *Northeastern Reporter*, p. 314.

While the Building Trades Council was in power no employer in the building industries could take any of these questions up to the supreme court,[1] as the Building Trades Council was powerful enough to prevent it. That is, no employer could continue his business in antagonism to the Building Trades Council for a period long enough to enable a case to be taken up and decided.

It should also be remembered that these labor questions are comparatively new, in the West at any rate. The United States courts passed upon a great many of them in 1894, as a result of the Debs strike, and as to most of these questions the law in those courts is well settled. The anti-trust act of the United States, passed July 2, 1890, provides that "every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal. Every person who shall engage in any such combination or conspiracy shall be — on conviction — punished by a fine not exceeding $5000 or by imprisonment not exceeding one year, or both." In United States *vs.* Workingmen's Council (54 *Federal Reporter*, p. 994) it was held that if a combination affects interstate commerce it falls within this act whether it be a combination of capital or labor. This decision was affirmed by the Federal Court of Appeal (57 *Federal Reporter*, p. 85). Yet continually we read of strikes intended to tie up interstate commerce by rail and water as if neither the strikers nor the employers have any idea that they are absolutely prohibited by law.

THE REMEDY.

Everyone admits as a matter of course the duty of the authorities to prevent by the police power the actual rioting, assaulting, and other criminal deeds of strikers, and to punish in the criminal courts all those who participate in such acts, or who conspire to have them done. While this should be insisted upon by the people at large, what the employer wants is the prevention of any unlawful interference with his business, as once it

[1] The board of education case was taken up by a taxpayer, who was not an employer of labor.

has happened he apparently has no redress. Punishing those who lay themselves open by being caught in some criminal act is a duty, but it does not make good the damage and loss he has suffered. If the views herein expressed as to the unlawfulness of the coercive methods of organized labor are sound no new general legislation is required to enable employers to get full relief from the courts.[1] All that is needed is a full realization of the remedies that already exist and more frequent resort to them. If it is desirable that law and order should rule, that the peace and prosperity, the welfare of hundreds of thousands of people be guaranteed by the regularly constituted authorities and not be subject to the whim and caprice of the leaders of Building Trades Councils, Federations of Labor, *et. al.*, then the public should insist that first of all the laws be obeyed and enforced. It should encourage every application to the courts for a settlement of any of the disputed "rights" of labor organizations or the correlative rights of the employers. When those rights have been declared and established by the supreme court of this state, resort to the courts should then be had by any party concerned. Hence when there is unlawful interference with employers' rights, application should be made to a judge having the necessary jurisdiction to prevent these labor leaders from interfering with the business of an employer under penalty of punishment for disobedience. Indications are not wanting in the recent decisions of a strong tendency towards judicial prevention of the interference with the business of the complainant, not only by force directly applied against the employer but by strikes caused and enforced by unlawful and oppressive coercion exercised by the unions over their own members. No court will order any workman or set of workmen to remain at work or to

[1] "There is clamor for laws to prevent combination, while law exists that condemns most of them, which is as old as the common law itself, and sufficiently severe to remedy much of the mischiefs complained of that are actual, yet violations of such law are so common, and the remedy it furnishes so seldom applied, that its very existence seems in many quarters to be little understood. The liberty of a man's mind and will to say how he shall bestow himself and his means, his talents and his industry, is as much the subject of the law's protection as is his body.—Wisconsin Supreme Court, Gatzow *vs.* Buening, 81 *N. W. Reporter*, p. 1007.

resume work. The courts, however, the writer believes, will prevent the officers of the union from ordering its members to strike under penalty of a fine if they decline to do so, or from compelling the union man to refuse to work with any suspended or expelled member. The writer believes in the right of the individual workman to work or not to work as seems best to him individually. He believes that that right is so absolute that no union should be allowed to interfere by threats of fines or punishment with its enjoyment by the members of the union any more than it should be allowed to interfere with its enjoyment by independent workmen. He believes that it is an inalienable right; that it is a right that cannot be taken or given away; that society as represented by the courts cannot sanction or consent to its being given into the keeping of the officers of any organization whether trade union or otherwise.

Following the supreme court of the United States in the Debs case it must be conceded that the jurisdiction of a court of equity to enjoin against unlawful interference with the business of an employer is not affected by the number of people to be enjoined. The only question can be whether the court has power to enforce its orders. To make that an objection is to fear the willingness of organized labor to submit to the authority of the law, and to suggest that they are such a large part of the community, or that they have the support of such a large part of the community that besides being willing to resist the authority of the laws, they can successfully do so, which means in other words—not that a revolution is to be feared but that it has already taken place. The rank and file of the labor organizations are, however, law abiding. There are indications that they would even welcome the protection of the law against their newly found masters: the unions, federations, and councils.

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